HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Transfer Application No.38 of 2001
{Old No. 146/2000}

1. Bhoora S/o Jumman
2. Mehadi Hasan S/o Buddhu
3. Yamin S/o Tasveera
   All r/o village Kunda
   P.S. Kashipur
   District U.S. Nagar
4. Ram Prasad S/o Bhullan
   R/o village Lathipur
   P.S. Rehad
   District Bijnor
5. Nisar Ahmad S/o Nanhey
   R/o village Aalampur
   P.s. Afajalgarh
   District Bijnor .....Applicants

Versus

1. State of Uttaranchal
2. Director, Rajaji National Park
   Dehradun .....Respondents

Hon'ble J.C.S. Rawat, J.

Heard Sri J. S. Virk learned counsel for the applicants and learned A.G.A.

The petition under section 407 Cr.P.C. has been filed with the prayer to transfer the criminal case No.429/1999 and 430/1999 State Vs. Nafees and others under section 26 of Indian Forest Act and under sections 30/31/51 of the Protection of Forest Animals Act, pending in the court of Civil Judge/Judicial Magistrate, Rishikesh, District Dehradun to any other adjacent district having the same jurisdiction.

The learned counsel for the applicant has merely contended that the life of the applicants is in danger. The learned A.G.A. refuted the contention and stated that if the case is transferred from the district Dehradun to any other district, the applicants' safety would be in danger. The allegations are vague. Mere apprehension to the applicants is not sufficient to transfer the case. In

these circumstances, it was submitted that the police protection may be given to the applicants while the applicants attend the court at Rishikesh.

The learned counsel for the respondents relied upon the decision in **Ranjit Singh Vs. Popat Rambhaji Sonawane A.I.R. SC p/292,** which is quoted below:-

> *"6. The solitary ground urged is that if the petitioner is asked to go to Pune where on his admission he has a house, his safety would be in danger. This is too nebulous a ground for transferring a case from Pune to Indore. It may be noted that all four witnesses are from Pune. But we must also take necessary precaution for assuring the safety of the petitioner when he is required to attend the court at Pune.*

The learned counsel for the applicant has also relied upon **Sesamma Phillip and etc. Vs. Phillip and etc. AIR 1973 SC p875.** The above decision of the Hon'ble Apex Court does not apply to the facts of the instant case.

In view of the foregoing discussion, I am of the view that there is no good ground to transfer the case from Civil Judge/Judicial Magistrate, Rishikesh district Dehradun to any other adjacent district. However, the Inspector General of Police concerned is directed to make arrangement for taking the applicants/accused, if need be, in police protection from Udham Singh Nagar & Haridwar to the court of Rishikesh on the date of hearing and return safely to their house. This arrangement is to be made for the period evidence of the applicants is required to be recorded. The applicants will bear the expenses at their own cost.

With these directions, the petition is disposed of finally.

(J.C.S. Rawat, J.)

Dated: 08.07.2005

LSR